

HOUSE BILL 2794  
By Ferguson

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 29 and Title 71, relative to the Assistive Technology Assistance Act of 2004.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 71, Chapter 4, is amended by adding Sections 2 through 9 of this act as a new Part 23.

SECTION 2. This part shall be known and may be cited as the "Assistive Technology Assistance Act of 2004".

SECTION 3. As used in this part, unless the context requires a different meaning:

(1) "Assistive technology" means any item, piece of equipment, or device that enables an individual with a disability to improve his or her independence and quality of life;

(2) "Authority" means the assistive technology loan fund authority established pursuant to this part;

(3) "Board" means the board of directors of the assistive technology loan fund authority;

(4) "Fund" means the assistive technology loan fund established pursuant to this part; and

(5) "Qualifying borrower" means any person who demonstrates that a loan made pursuant to this part will assist one (1) or more persons with disabilities to improve their independence or become more productive members of the community. The person must demonstrate creditworthiness and repayment abilities to the satisfaction of the board.

SECTION 4.

(a) It is hereby found and declared by the general assembly that there exists in the state a need to provide assistance with loans and in the purchase of assistive technology equipment, or other equipment, which is designed to enable persons with disabilities to become more independent or more productive members of the community with an improved quality of life.

(b) To achieve the objectives of subsection (a), the assistive technology loan fund authority is hereby created, with such powers and duties as are set forth in this part, as a public body corporate and as a political subdivision of the state.

#### SECTION 5.

(a) All powers, rights, and duties conferred by this part or other provisions of law upon the authority shall be exercised by the board of directors of the authority. The board shall consist of twelve (12) members as follows: the commissioner of human services or the commissioner's designee; an employee of a rehabilitation center; an experienced consumer lender; a certified public accountant; two (2) persons with investment finance experience; and six (6) persons with a range of disabilities. The citizen members shall be appointed by the governor. The board shall annually elect a chair from among its members. Board members shall not receive a salary but shall be reimbursed for travel expenses. All reimbursement for travel expenses shall be in accordance with the provisions of the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

(b) The ten (10) citizen members of the board shall be appointed for four-year terms, except that appointments to fill vacancies shall be made for the unexpired terms. Representatives of state agencies shall serve coincident with the term of the governor. No member appointed by the governor shall be eligible to serve more than two (2) complete terms in succession.

(c) Meetings of the members of the board shall be held at the call of the chair or whenever six (6) members so request. The board may delegate to a loan committee the authority to review and approve or deny loan applications based upon information provided to or obtained by the board, in accordance with criteria established by the board and subject to the

board's ratification at its next regular meeting. In any event, the board shall meet as necessary to attend to the business of the authority.

SECTION 6. The authority is hereby granted all powers necessary or appropriate to carry out and effectuate its purposes including, but not limited to, the following powers to:

(1) Have perpetual existence as a public body corporate and as a political subdivision of the state;

(2) Adopt, amend, and repeal bylaws, rules, and regulations not inconsistent with this part, to regulate its affairs and to carry into effect the powers and the purposes of the authority and for the conduct of its business. All regulations of the authority shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5;

(3) Sue and be sued in its name;

(4) Have an official seal and alter it at will;

(5) Establish, administer, manage, including the creation of reserves, and make expenditures from the fund for the sole purpose of providing loans to individuals with disabilities for the acquisition of assistive technology, other equipment, or other authorized purposes;

(6) Administer the fund established by this part and contract with the state treasurer and other state or community-based entities or groups working with persons with disabilities for such assistance in administering the loan program as the board may require;

(7) Maintain an office at such place or places within the state as it may designate;

(8) Make and execute contracts and all other instruments necessary and convenient for the performance of its duties and the exercise of its powers under this part upon such terms and conditions as it deems appropriate, including contracts with appropriate state or community-based entities or groups dealing with disabled persons;

(9) Employ office personnel, advisers, consultants, professionals, and agents as may be necessary in its judgment, and to fix their compensation. Legal services in civil matters shall be rendered and performed by the attorney general and reporter;

(10) Procure insurance against any loss in connection with its property and other assets, including, but not limited to, loans in such amounts and from such insurers as it may deem advisable;

(11) Receive, hold, accept, and administer from any source gifts, grants, aid, or contributions of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of this part (subject, however, to any conditions upon which grants or contributions are made) including, but not limited to, gifts, grants, bequests of money or devises from any source, including the federal government or any of its agencies or instrumentalities for the purposes of this act. Unless otherwise restricted by the terms of the gift or bequest, the board is authorized to sell, exchange, or otherwise dispose of such money, securities, or other property given or bequeathed to it in furtherance of its purposes;

(12) Use any fund or funds of the authority for any and all expenses to be paid by the authority including, by way of example, but not by limitation, any and all expenses for administrative, legal, and other services;

(13) Collect fees and charges, as the authority determines to be reasonable, in connection with its loans, insurance, guarantees, commitments, and servicing thereof;

(14) Take any action necessary or convenient for the exercise of the powers granted by this part or reasonably implied from them; and

(15) Maintain the confidentiality of financial, medical, rehabilitative, and other personal information submitted to or maintained by the authority concerning applicants for or recipients of loan funds. Such information shall not be public records pursuant to title 10, chapter 7, or the public meetings pursuant to title 8, chapter 44.

## SECTION 7.

(a) There is hereby established a permanent and perpetual fund to be known as the assistive technology loan fund, consisting of such moneys as may be appropriated by the general assembly from time to time, gifts, bequests, endowments, or grants from the United States government, its agencies, and instrumentalities, all receipts by the fund from loans made by it, all income from the investment of moneys held in the fund, and any other available

sources of funds, public, and private. Any moneys remaining in the fund at the end of a biennium shall not revert to the general fund but shall remain in the fund. Interest and income earned from the investment of such funds shall remain in the fund and be credited to it.

(b) The fund shall be used to provide loans to individuals with disabilities within the state for the purpose of acquiring assistive technology, other equipment, or other authorized purposes designed to help such individuals become more independent. The fund shall also be used to buy down interest rates of lending institutions making such loans and provide a loan guarantee for loans made by lending institutions for such purposes. The fund shall be used only when, in the discretion of the board, loan applicants have met eligibility criteria and the release of money is deemed appropriate.

(c) The fund shall be administered and managed by the authority. The costs and expenses of maintaining, servicing, and administering the fund may be paid out of amounts in the fund.

#### SECTION 8.

(a) The board may enter into loan agreements with any qualifying borrower who demonstrates:

(1) That the loan will be used to acquire assistive technology, other equipment, or other authorized purposes designed to help one or more persons with disabilities to improve their independence or become more productive members of the community; and

(2) Who has the ability to repay the loan.

(b) The amount and terms of any loan shall be determined by the board.

(c) All loans must be repaid on such terms and at such interest rates as the board may, from time to time, determine to be appropriate in accordance with a procedure prescribed by regulations adopted pursuant to the Uniform Administrative Procedures Act.

SECTION 9. The board shall submit an annual statement of the receipts, disbursements, and current investments of the fund for the preceding year to the governor and the general assembly. The report shall set forth a complete operating and financial statement covering the operation of the fund during the year.

SECTION 10. Tennessee Code Annotated, Section 4-29-227(a), is amended by adding a new item thereto, as follows:

( ) Assistive technology loan fund authority, board of directors, created by Section 3 of this act;

SECTION 11. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 12. For the purposes of appointing members to the board and promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2004, the public welfare requiring it.